

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

FEDEX CORPORATION
and SUBSIDIARIES

Plaintiff,

V.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:20-CV-02794

**JOINT MOTION TO EXTEND DEADLINES
FOR FILING DISCOVERY PLAN AND JOINT SCHEDULING ORDER AND
TO EXTEND THE DATE FOR A SCHEDULING CONFERENCE**

The parties, pursuant to FRCP 6(b)(1)(a), jointly request that the deadline to file a discovery plan be extended by 21 days to April 9, 2021, and that the scheduling conference and the deadline to file a joint proposed scheduling order also be extended accordingly. As shown below, good cause exists for the extensions sought.

1. This is a federal income tax case concerning FedEx's 2018 and 2019 tax years. On February 19, 2021, the United States filed its answer, and on March 9, 2021, counsel for the United States and FedEx held a Rule 26(f) conference. In addition to the usual items identified in Rule 26(f), the parties also discussed issues related to the coordination of this case with the IRS's previously-planned audit of FedEx's 2018 and 2019 tax years, as well as with the ongoing discussions FedEx was having with the IRS's Advance Pricing and Mutual Agreement Program (APMA). In brief, FedEx raises a particular issue in its Complaint, relating to a claim for specific

foreign tax credits, but the audit and other ongoing discussions with the IRS will involve examinations of, or may impact, other items on FedEx's 2018 and 2019 returns.

2. The parties' discussion on March 9 was productive, and the parties agreed to continue working cooperatively towards a plan that would allow the Court to efficiently address the claims in FedEx's complaint, while also accommodating FedEx's other interactions with the IRS. Both parties believe that this process would benefit from additional time. Their discussions about specifying relevant legal and factual issues could continue, and, if successful, the parties could present a more fully-developed discovery plan that would incorporate any agreements, or, alternatively, refine and narrow any points of disagreement. Moreover, as this situation is somewhat unique, the parties request additional time for any proposed plan to be reviewed and approved by FedEx and by appropriate officials at the Department of Justice and IRS.

3. Pursuant to the Court's Notice of Setting, a scheduling conference is currently set for March 24, 2021. A discovery plan is thus due March 19th and a joint proposed scheduling order is due March 23rd. The parties anticipate that the results of their coordination discussions would be set out in the discovery plan and proposed scheduling order. Additional time for filing the plan and proposed schedule would allow the parties to further refine and develop that plan and schedule, thus conserving judicial resources and providing a clearer roadmap for this case.

4. Although the parties request additional time to file a discovery plan, the parties nonetheless are moving forward with the discovery process. In particular, the parties will make initial disclosures pursuant to Rule 26(a) on March 22, 2021, in line with this Court's prior instructions.

(Continued on following page.)

WHEREFORE, the parties respectfully request that the deadline to file the proposed discovery plan be extended to April 9, 2021, that the deadline for filing the joint proposed scheduling order be extended to April 13, 2021, and that the scheduling conference be extended to the next available date thereafter.

DATED: March 12, 2021

DAVID A. HUBBERT
Acting Assistant Attorney General

s/ Cory A. Johnson

Cory A. Johnson
Ill. Bar No. 6211233
Senior Litigation Counsel
Elisabeth M. Bruce
Trial Attorney
Tax Division
U.S. Department of Justice
P.O. Box 14198
Ben Franklin Station
Washington, D.C. 20044
202-307-3046 (Johnson)
202-598-0969 (Bruce)
Fax: 202-514-9440
Cory.A.Johnson@usdoj.gov
Elisabeth.M.Bruce@usdoj.gov

/s/

JOSEPH B. JUDKINS
Tennessee Bar No. 033183
joseph.judkins@bakermckenzie.com
GEORGE M. CLARKE
D.C. Bar No. 480073
george.clarke@bakermckenzie.com
BAKER & MCKENZIE LLP
815 Connecticut Avenue,
N.W. Washington, DC 20006
Tel: (202) 452-7000
Fax: (202) 452-7074

CAMERON C. REILLY
Illinois Bar No. 6321364

cameron.reilly@bakermckenzie.com

BAKER & MCKENZIE LLP

300 East Randolph Street, Suite 5000

Chicago, IL 60601

Tel: (312) 861-8000

Fax: (312) 861-2899

Attorneys for FedEx